

**Salisbury Planning Board  
Meeting Minutes  
Wednesday, April 8, 2015 7:00 p.m.**

**PB Members Present:** Don Egan (DE), Chairman, Lou Masiello (LM), Brendan Burke (BB), Berenice McLaughlin (BHM), and Helen "Trudi" Holder (TH), Robert Straubel (RS)

**PB Members Absent:** None

**Also Present:** Leah Hill (LH), Asst. Planner, Lori A. Robertson, Planning Board Secretary

**Time:** 7:00 p.m.

Chairman Egan called the meeting to order at 7:05 p.m. in the Colchester Room, Salisbury Town Hall. **DE** announced, per the Open Meeting Law, that this meeting was being recorded and broadcast live via [www.sctvmc.org/index](http://www.sctvmc.org/index).

**1. New Business:**

**2. Other Zoning:** **LH** stated after the zoning workshops there are some things that needed to be addressed throughout the whole zoning bylaw. For instance, fish processing and bed and breakfast. Lisa Pearson (LP), Planning Director addressed the board. If we make bed and breakfast permitted in our new zone, right now it falls under hotel/motel then you would prohibit those in the other zones. We just want to make sure they are allowed in other commercial corridors. We have an existing use that is fish, shellfish, wholesale, processing and retail sales. We will recommend that we remove the "and retail sale". We will have to have a public hearing to change the use table. **DE** asked if we need a formal vote. **LP** stated no.

**3. Planner Update:**

- Open Space update; survey will be put up on website to get the residents involved.
- Art Stroll-still taking applications for the stroll on May 16, 2015

**7:30 Public Hearing:**

**a. SPR – 175 Beach Road-Town of Salisbury:** **LP** addressed the board. We came to you in the pre-planning stages. Went over the feasibility study; town meeting and permitting. Ms. Janet (JS) of HTK Architects addressed the board. Went over the design of the building. Went over the zoning relief that was sought; Conservation Commission approval; pending the state highway access permit and the Department of Public Health; and documents in production. Discussed what is planned on the 6 acres. Vehicles will enter off of Beach Road. There is a secondary roadway that will be used for police vehicles only. The curbing will be granite and will revise the plans to reflect that. There existing sidewalks will be replaced in kind. There are some wheel stops shown on the plan and we are looking into replacing those with bollards. The trash will be picked up at the curb. The sign will be located on Beach Road. There are also two flag poles which will be located on the site as well. Went over parking for visitors. Discussed Police parking and the two gates to allow access. Discussed the driving of water department personnel. There are 12 light poles proposed; 4 in the front and 8 in the back. Showed the photometric plan. Went over the proposed elevation plans.

**LM** asked if the sidewalks were being continued. **JS** stated yes. **TH** asked if the community garden people would be able to use the access from Old County Road. **JS** stated yes. **TH** asked about if the trees surrounding the community garden would stay? **LP** stated we will lose some of those trees because of the retaining wall.

**LM** asked if the utilities will be underground. **JS** stated yes. **DE** asked about the granite curbing. **JS** stated just the frontage that is being affected?

Thomas Fowler (TF), Police Chief addressed the board. Over the past two years we have kept several things in mind. Building a functional modern police department. One that will serve the town for the 25 years. Fiscally responsible and one that fits into the neighborhood.

**LM** motions to approve the site plan for 175 Beach Road, Town of Salisbury with the following conditions:

1. Removing the wheel stops and replacing with bollards.
2. Granite curbing on Beach Road.
3. Look into the possibility of moving the fencing back for additional snow storage.
4. Pavement should be a base coat of 2.5" (shown 2") and the top coat at 1.5".
5. Will require a MassDOT permit.
6. Utilities will be underground.
7. Standard Conditions.

**BB-Seconds.** Vote on motion 5 – 0 unanimous. **Motion Passed.**

**RS** stated we are approving this but usually we see the draft decision. **DE** stated we named the special conditions and the rest will be standard. **LP** stated the document you see ahead of time is provided for the applicant and they may review it. **RS** stated I am concerned that someone will say that the PB approved a document without looking at it. **DE** stated we actually are not approving the document but the site plan.

- b. To amend the Zoning By-Law of the Town of Salisbury by creating a new zoning bylaw entitled Lafayette-Main Commercial District and to take any other action relative thereto:** (**LH** stated there is a clipboard for a sign-in sheet) **DE** stated we have been working on new zoning for this area. We have hired an outside consultant. **LP** stated we have had multiply workshops, visioning and multiply drafts. Garrett Hyer (GH) of RKG Associates addressed the board. Went over the company he works for and what they do.

**Project Background:** Town adopted Master Plan in 2008. Key for Lafayette Road Recommendations: Create a distinctive gateway corridor that portrays a positive image of Salisbury. Expand and enhance commercial and residential development consistent with desired character of the corridor. Key for Main Street East Recommendation: Maximize economic development opportunities. We had many workshops starting January 14<sup>th</sup>, February 11<sup>th</sup>, February 25<sup>th</sup>, March 25<sup>th</sup> and tonight's public hearing. He went over what zoning is and what it can do. Economic Impacts and what it can provide for development. Public discussions were 1. Where future growth or development should be directed. 2. Which land uses mix well, and which don't. 3. Where new housing opportunities could be best located. 4. Types and desired mixes of new housing opportunities. 5. Where new retail and office uses could be best positioned. 6. Types of desired retail and other commercial uses. He showed map of existing zoning and the problems with the existing zoning. We are proposing Lafayette –Main District with four (A, B, C and D) sub districts. The district is defined by parcel boundaries, not an arbitrary distance from Lafayette Road. The proposed changes are to actual underlying zoning, not a new "overlay" layer. This does not legally affect existing uses or structures they can continue to exist. This is only for new development or redevelopment.

**Sub district "A"**-area for a large scale development: hotel, grocery, and office. It's close to I95. Artificial water recharge issues need to be resolved. Existing commercial zone would remain along East Main Street. (black outlined Main Street area is existing commercial-this is defined by parcel boundaries)

**Sub district "B"**-priority area for cluster or retail and commercial along Lafayette Rod with a mixture of housing. Available land to existing town infrastructure. Higher density housing, mix alleviates pressure on schools. First 200' off of Lafayette Road reserved for commercial uses. Multifamily buildings are permitted at up to 4 per acre behind that. Detached single family homes are permitted if MRD special permit is utilized. Requires the number of single family homes not to exceed 50%.

**Sub district "C"** focuses on Pike Street and 286. It will allow for low to medium density commercial uses. Ideal for local residents with access to New Hampshire. Lower traffic counts do not currently favor retail feasibility, but this area would be prepared to handle overflow.

**Sub district "D"** this focus is on smaller scale commercial. Unique shops, studios or restaurants could enhance the Town's core.

**Lafayette-Main Commercial District**-parcels are not large enough for intended scale of Sub District "B". Parcels are large enough to support a higher density of retail/commercial than Sub District "D". More opportunities as opposed to leaving "as-is" in existing commercial district.

**Use Table**-we added a column onto the town's existing use table. At the workshops we identified ideas that would work well in different districts. I know that things were left out and there is interest in self-storage facilities in the Lafayette-Main District.

**Dimensional Regulations:** state where the building will be, what the height will be. Went over the different sub districts and the dimensional and density regulations.

**MRD Density Standards:** - Mix Residential Development (MRD) is sub district "B" review: First 200' off of Lafayette Road reserved for commercial use. Multifamily buildings are permitted at up to 4 acre behind that. Detached single family homes are permitted if a MRD special permit is utilized. This requires the number of single family homes not exceed 50% total.

**Densities:** Detached single family dwelling-one unit per 1/4/ acre of Net Developable area. Multifamily dwelling: four units per acre of Net Developable area.

**Parking Standards:** Off street parking will be 9'x18'. The intent of off street parking location standards is to hide parking as much as possible.

**Design Guidelines:** Guidelines are as follows: Building placement and orientation, open space, pedestrian/bicycle/vehicular circulation, water quality and storm-water, utilities, lighting, parking, snow removal, trees and landscaping, signage, safety, energy efficiency.

**LM** asked if in Node D would include the parking in the rear. **GH** stated yes. **LM** asked if the white areas on proposed map stay in current zoning. **GH** stated yes. **LM** asked the red striped area on proposed map are the same but expanding by going beyond 400'. **GH** stated yes.

**RS** stated the Main Street outlined in black is not changing. Why is it outlined in black? **GH** stated for the purpose of the public hearing we are leaving that black so you know that it is not changing.

**DE** asked about the minimum open space requirement. It feels too small. I thought of a possible addition to this making this contingent that the open space includes upland and not wetlands. I'm hoping there is way to preserve the greenspace and trees on Lafayette Road. **GH** stated we do provide for buffer areas.

Ron Laffely (RL) of 22 Lafayette Road addressed the board. He noted that he was concerned about architectural elements. Not having to go get a variance if someone wants to put up a cupola or elevator shaft or steeple is a good idea. I am also in disagreement with how close the "D" buildings have to be to street. **GH** stated in regards to the architectural elements, everything with this zoning will go through site plan review. We could add some language to the design guidelines for the Planning Board to adopt. I do think 10-20' minimum/maximum front setback for sub district "D" we would be open to 10-30'. **LP** stated I don't have a problem with that. I don't think the other item falls under this zoning. I feel it falls under another section- Article 4-Dimensional Regulations, exemptions from the zoning. **LM** stated I would like to add air conditioning units to this as well.

Gordon Blaney (GB) of Main Street addressed the board. I feel disappointed that we are trying to cram this in to spring town meeting. I have issues with the fish, processing, wholesale- You have a "P" under Lafayette/Main. Not allowed in "A" and allowed in "C". I feel that is pretty dense with residential and wouldn't want that as my neighbor especially seafood. I would like this to be "A" and "C". There is no auto-sales or service, etc. Not sure what the open space portion is. On page 6 Sub district L-MA it says minimum % lot width occupied by principal buildings at maximum front setback is 75%. I question how that will look. **GH** stated the fish use hopefully will be resolved with the new zoning. The intent of having it allowed in "C" and Lafayette/Main originally since "A" is limited in size that use in "A" would limit a possibly denser or greater use. In terms of the auto uses. I would like to get with LP and LH and how to format the use table. Open Space requirement instead of providing a maximum we are providing a minimum. **LP** stated the main reason we left it on Lafayette/Main was because we were expanding the existing commercial and it's an allowed use. I don't think anyone would be opposed to moving it. She read the definition of open space from the FRD Section 300-82-119. It is not currently under our definitions. If this is the definition we want to go forward with we could add to the other items.

**Timing:** We worked on this zoning last summer. We had about 5 workshops this year.

Sheila Albertelli (SA) of Douglas Avenue addressed the board. Is there any plan to show the Conservation Commission the same presentation? Is there a small coastal town that we could use as an example? **LP** stated I will talk with Michelle to make sure the commission gets a copy and put on the agenda. **GH** stated I can look into that.

Wayne Burbo (WB) of 80 Lafayette Road addressed the board. My property is occupied by myself and my business. As it transitions to full blown commercial I'm concerned about my residential home to protect the property owner from having a 2 ½ - 3 story building next to them. I did read about the buffer. **GH** We have required buffers from the side and rear setbacks. Single family homes are permitted by right.

**LM** motions to continue the hearing to amend the Zoning By-Law of the Town of Salisbury by creating a new zoning bylaw entitled Lafayette-Main Commercial District and to take any other action relative thereto to the April 22, 2015 PB meeting at 7:30 pm at Town Hall.

**TH** Seconds- Vote on motion 5 – 0 unanimous.

**c. Definitive Subdivision-20 Ferry Road (Ferry Road/Douglas Road) Elite Builders:**

**DE** stated Berenice McLaughlin will step down because she is an abutter. Also, **RS** is the alternate and he will be stepping down as alternates can't vote on subdivision.

Ed Dixon (ED) of DGT Survey Group addressed the board on behalf of the applicant. This is a three lot development with six units. There will be a private way off of Douglas Avenue. Two lots will be accessed off of Ferry Road. All utilities will be coming off of Ferry Road through an easement. We have been through Conservation Commission. **DE** stated typically we ask for information on for example, emergency access. **ED** stated we have consulted with the Fire Department and we received their approval. Drainage will all be on property. The roadway will be a country drainage design.

**DE** asked about the pavement that will be used.

Brad Kutcher (BK), Elite Builders addressed the board. We met with Don Levesque, DPW Director to design the roadway. Joe Serwatka, the review engineer for the Town gave recommendations of what he would like to see for the road. We do have sufficient frontage on Ferry Road, so that is a Form A lot. **DE** asked if the Form A has been approved. **BK** stated we were asked to get the Conservation Commission approval as one lot. **DE** asked if the porous pavement has been used in Town before. **LH** stated no. There are maintenance issues associated with it. **LM** asked is it the same materials for the driveway? **BK** stated yes.

**LM** asked if sidewalks would be near the houses. **BK** stated no. **LH** stated sidewalks are a requirement of subdivisions. My opinion would be to put sidewalks on Ferry Road. **DE** asked about street lighting. **BK** stated we are proposing the same as Sawyers Farm, lamp post. **DE** asked if they were shown on the plan. **BK** stated it should be on the utility plan.

**DE** stated currently: Sidewalks, lighting, proposed landscaping none of which appears to be on the plan. How about easements for utilities? **ED** stated there is an easement shown which is on our property. **DE** stated have you had a chance to review the Town Engineers comments from April 7, 2015? **ED** stated no. **DE** stated I am not sold on the porous pavement for the access. I'm not sure its allowed by our design standards. **DE** stated we have required curbing throughout the project. **BK** stated there will be a list of waivers.

**BB** asked if the staff report has the same comments as Joe Serwatka. **LH** stated I think Joe brings up more engineering questions. **BB** read the comments from the Planning Department:

Ownership of road, No sidewalks are shown, but are required per our subdivision. Decision on T roadway, Trees are to be planted along subdivision road every 50'. The right of way is shown as 40' with 22' of pavement, less than the requirements. Maintenance of road/homeowners association will need to be established. Street name. Bonding for roadwork. Street opening bond on Ferry Road for utilities. Access fees for sewer and water. Streetlights and benchmarks to be shown on plan. Also, Inclusionary zoning. **BB** asked if the two houses will be in the association too. **BK** stated no.

**DE** stated our responsibility is to make sure there is a provision that the access to the lots are safer and convenient. He read for Section 7A design standards in the Planning Board Rules and Regulations. There are additional design standards for the Outer Village Overlay District. **BK** asked if the board would like architectural/elevation plans. **DE** stated I think that would be great.

Abutter, Sheila Albertelli (SA) of 10 Douglas Avenue addressed the board. I have asked BK if he could put tall fencing around the subdivision to block people from my horses for safety and liability reasons. The next item is on the field there was a discrepancy that looked like the demarcation for this private road. It seemed to be on my private property. I had my engineer come out and survey my lot lines. **My engineer and the engineer for Elite Builders spoke they are in agreement, it was on my private property.** It was corrected on the field and the haybales were moved. I would like to make sure there isn't a mistake on the plan. Shows plan and states that it is different than the plan she has. My plan shows an opening of 25'. The Barton Industry plan matches my survey. **BK** stated we made the change for the radius. We didn't necessarily agree with it but we made the change. The haybales were not lot lines, they were erosion controls. **SA** stated it was not erosion control. It is not a resource area. **LH** stated I can check to see if this is something Joe can review otherwise I will check to see how we can proceed. **SA** showed pictures of the haybales. **SA** stated I submitted a claim to my title insurance company. The parcel that I abut is registered land. I can't find anywhere that someone can come in and take possession of this right of way. It's been kept open space for over a century. She read a letter from her Attorney Sarah Orlov dated April 8, 2015. "I have not done a lot of research into this but started looking at deeds that are the source of this developers title. The Land Court plan referenced should be 24106E which creates Lot 27. The title for the land originally comes out of Barton in 1960. In the deed, the Registered land is incorrectly described as Lots 21, 22 and 23 but the running description is of Lot 27 on the E plan. This running description specifically does NOT convey rights in the Street. I attach a copy of the deed, recorded land plan and the E plan with the notation of no rights in the way highlighted – this is the boundary on what they call Sycamore Way. The Trustees of the Alan-Jay-Gary Trust convey their interest to the Smalls in 1965 – this deed also has the language no rights in what is shown as Sycamore Way on his development plan. See attached Book 5330, Page 69. The first of a number of deeds from Small (they convey to themselves and different trusts several times) is in 1984 and the reference to no rights in way in the registered land parcel is dropped – see Deed in Book 7373, Page 140. The Smalls do not gain rights in the way unless specifically granted the rights and I have not found that as of yet. I would suggest you provide copies of the 1960 deed from Barton along with the two plans to the Planning Board and ask that the developer be required to show specific grant of right to use Douglas and Sycamore. There is no right referenced or granted in any of the documents referenced on the revised development plan you sent yesterday. Since the original deed into the Smalls excludes rights in the way – the property does not have an automatic right to use Douglas or Sycamore since they are private ways. Let me know what happens at the meeting tonight as to whether we need to do any more title work or if the ball is in their court to provide proof of access." I also submitted the deeds and the land court paperwork.

Attorney Paul Gagliardi (PG) for Elite Builders addressed the board. We are not trying to take over ownership of the way. Sycamore Way is shown on a landcourt plan along with her property and ours. There is a theory in law called an easement by estoppel. If you own property on land by estoppel you have the right to use that private way to access your property. It gives you the right to improve the private way. Under Massachusetts Law that includes putting utilities within the private way.

**DE** asked **SA** if she was opposed to the development. **SA** stated no. I am opposed to someone coming in and taking trees down, putting in the paved road. What rights is it offering me. It's giving access to private homes. **DE** stated so you don't have a problem with the houses. You just don't want them driving on Douglas Avenue. **SA** stated correct. She brought up drainage and how this property slopes towards her property.

Abutter, Isa Cann (IC) of 22 Ferry Road addressed the board. I am impacted by anything that would go on that property. I am on the corner of Douglas and Ferry. Douglas is not a town road. My attorney John Hamilton could not be here tonight. Elite Builders is not a registered business. My attorney has reached out to BK to speak with him with no return calls. The silt wall with the haybales was used to define the lot lines. **DE** stated the property lines will be definitely determined by the engineers involved. **IC** stated the proposed cuts we don't feel they are viable in terms of the town minimums for width. These numbers on the plan don't seem to match. It says that Douglas is 40' wide. I have measured myself not including shoulder which is 18'.

**DE** stated I would like to know specifically what you think doesn't meet the town's standards.

**IC** stated the width of the road, the curb cuts at the end. I also own to the center of that easement. I also have registered property. I don't want that easement used. It has mature growth. I see no reason why the access can't be on Ferry Road. I have issues with water management. The pervious road is not more eco-friendly. I would rather have pavers, grass. The purpose of the Village Outer overlay district is not served by this development. Douglas Avenue is one that children play on. At least three people on the street feel strongly about using Douglas Avenue.

**DE** stated I would like to state the use of the easement for access and also using Douglas Avenue. I would like to send this to Town Counsel for review. **LM** stated I agree but I would rather see the parties sort this out first. **LH** stated we do have review money from the developer. **BB** stated I would agree with Town Counsel. **TH** stated I agree with Town Counsel to review also. **DE** stated I would like Town Counsel to communicate with all the attorneys involved if that's feasible. **LH** stated they will give you an opinion to PB.

**DE** asked **PG** if going to Town Counsel adequate. **PG** stated I think that's reasonable. I would like the opportunity to converse with Town Counsel. There was some indication that Elite Builders Realty Trust doesn't exist. It's a realty trust and it doesn't have to be registered with the state. As far as the width of Douglas Avenue she is measuring the pavement not right of way. There is a landcourt plan that shows these ways. Sycamore is not 50' wide there is case law that if there is a way shown on an existing plan the town cannot require you to comply with the current width requirements. All they can require you to do is improve it to the standards that the PB would impose on any other way.

**IC** asked for clarification of plan indicates that Sycamore is a certain width. **DE** stated we are going to have Town Counsel weigh in on this as well. **IC** stated I am hoping to have my attorney weigh in also.

**BB** motioned continue the Definitive Subdivision-20 Ferry Road (Ferry Road/Douglas Avenue)-Elite Builders to May 13, 2015 at 7:30 pm at Town Hall.

**TH** Seconds-Vote on motion 4 -0 unanimous. Motion Passed.

**4. Other Business:**

Paul Fodey, Lafayette Road asked about a proposed rotary on Toll Road and 286. I was wondering if there was a plan. **LH** stated the Planning Office has a copy.

**5. Correspondence:**

**a. Minutes from March 25, 2015.**

**LH** stated I needed to finalize the minutes so they are not ready yet.

**b. Minutes from March 11, 2015.**

**BB** motions to accept the minutes from March 11, 2015.

**TH** Seconds-Vote on motion 6 - 0. **Motion Passed.**

**6. Reports of Committees:**

**7. Adjournment**

**LM** motions to adjourn at 10:33 pm

**TH** Seconds – Vote on motion 4 – 0 unanimous.

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Chairman

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Date